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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/749,672	12/31/2003	Amir Khan	17316 (DN2799)	9728

7590 10/06/2010
GAF MATERIALS CORPORATION
1361 Alps Road
Wayne, NJ 07470

EXAMINER

CHEVALIER, ALICIA ANN

ART UNIT	PAPER NUMBER
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1783

MAIL DATE	DELIVERY MODE
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10/06/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/749,672	Applicant(s) KHAN ET AL.	
	Examiner ALICIA CHEVALIER	Art Unit 1783	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 June 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15, 18, 20 and 21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15, 18, 20 and 21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

RESPONSE TO AMENDMENT

Request for Continued Examination

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on June 7, 2010 has been entered.
2. Claims 1-15, 18, 20 and 21 are pending in the application, claims 16, 17 and 19 have been cancelled.
3. Amendments to the claims, filed on June 7, 2010, have been entered in the above-identified application.

WITHDRAWN REJECTIONS

4. The 35 U.S.C. §102 rejection over Clemens et al. (US Patent Application Publication No. 2002/0114940), made of record in the office action mailed January 5, 2010, pages 6-7, paragraph #6 has been withdrawn due to Applicant's amendment in the response filed June 7, 2010.

REJECTIONS REPEATED

5. The double patent rejection over copending Application No. 10/918268 in view of Liu et al. (US Patent No. 5,968,669) is repeated for reasons previously made of record in the office action mailed January 5, 2010, pages 3-5, paragraph #5.

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6. The 35 U.S.C. §103 rejection of claims 1-15, 18, 20 and 21 as over Clemens et al. (US Patent Application Publication No. 2002/0114940) in view of Liu et al. (US Patent No. 5,968,669) is repeated for reasons previously made of record in the office action mailed January 5, 2010, pages 7-9, paragraph #7.

ANSWERS TO APPLICANT'S ARGUMENTS

7. Applicant's arguments in the response filed June 7, 2010 regarding the 35 U.S.C. §102 rejection over Clemens of record have been considered but are moot since the rejections have been withdrawn.

8. Applicant's arguments in the response filed June 7, 2010 regarding the 35 U.S.C. §103 rejection over Clemens in view of Liu of record have been carefully considered but are deemed unpersuasive.

Applicant argues that neither the "topcoat" of Clemens does not teach a cured reaction product/mixture of a polymeric binder.

Clemens discloses that the topcoat, as well as the basecoat comprises a cured resin, see page 8, paragraph [0169].

Applicant argues that the expandable graphite particles are in the basecoat not the top coat.

Clemens discloses in Paragraph [0029] that the topcoat can further comprise a flame retardant. Then paragraph [0187] discloses the examples of usable flame retardants, such as expandable graphite, of the invention of Clemens. Therefore, Clemens discloses that the topcoat comprises expandable graphite.

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Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia Chevalier whose telephone number is (571) 272-1490. The examiner can normally be reached on Monday through Thursday from 11:00 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David R. Sample can be reached on (571) 272-1376. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Alicia Chevalier/
Primary Examiner, Art Unit 1783
10/1/2010